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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,994	11/17/2003	Brian G. Morin	5150A	2284

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EXAMINER	
JUSKA, CHERYL ANN	
ART UNIT	**PAPER NUMBER**
1771	

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/714,994	MORIN ET AL.	
	Examiner	Art Unit	
	Cheryl Juska	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 October 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *29-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Response to Amendment

2. Applicant's amendment filed with the RCE on October 4, 2006, has been entered. Claims 1-28 and 35 have been cancelled. Thus, the pending claims are 29-34.

3. Said amendment renders moot the rejections against claims 9-19, 27, 28, and 35 as set forth in the Final Rejection mailed July 12, 2006 and the Advisory Action of September 25, 2006.

4. Claims 29-34 were indicated as allowable in said Advisory Action. Specifically, the Amendment After Final filed September 12, 2006, was sufficient to overcome the 112, 2nd rejection and the prior art rejection of claim 29 as set forth in sections 5 and 10 of the Final Rejection. However, upon further consideration, the indicated allowable subject matter is hereby withdrawn for the reasons set forth below.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 29 is rejected under 35 U.S.C. 102(b) as being anticipated by US 4,045,605 issued to Breens et al.

Applicant claims an article comprising (a) a base substrate, (b) a plurality of receiving loops comprising a multi-filament yarn, and (c) a plurality of stiff loops comprising a monofilament yarn having a denier per filament (dpf) of at least about 10 dpf greater than the multifilament receiving loop yarns. Said stiff loops and receiving loops originate at the same location on a first side of the base substrate and return to the first side of said base substrate at the same location. The stiff loop yarns preferably have a cross-section having (a) at least one corner edge, (b) an aspect ratio of greater than 1.2, or (c) a square, rectangular, tear drop, crescent, multi-lobe, or concave shape. Preferably, the stiff loop yarns comprise a slit film.

Claim 29 was previously indicated as containing allowable subject matter in that the claim was interpreted as being drawn to at least one side of the fabric of the embodiment as depicted in Figure 1 of the present specification. Said Figure exemplifies a plurality of looped tufts of two separate yarns wherein one loop of said two yarns have the same starting and ending points in the base substrate and wherein one yarn of the dual loop is of a lower loop height than the other. However, the present claim language is not necessarily limited to said drawing. For example, the claims encompass two separate yarns forming a loop together as well as loops

formed of a plied or cabled yarns, wherein one yarn is a multifilament yarn and one yarn is a monofilament yarn having the claimed denier differential.

Breens discloses a carpet having tufts of 75-98% by weight of conventional carpet fibers and 2-25% of stiff filaments to act as dirt scrapers (col. 1, lines 14-18). The conventional carpet yarns multifilament yarns of about 200-1000 tex comprising preferably 10-20 dtex per filament, while the stiff fibers are preferably heavy monofilaments of about 30-300 tex (col. 1, lines 19-31). Breens exemplifies a carpet comprising rows of said multifilament carpet yarn tufts and having every third row of tufts being made from a mixture of the carpet yarn and the stiff monofilament yarn (col. 1, line 58 – col. 2, line 6). The carpet yarn comprises multifilaments of 15 and 18 dtex, while the stiff yarn was 150 tex (col. 1, line 58 – col. 2, line 6). The reference is silent with respect to the tufts being cut or loop pile. Since tufting inherently produces loops, which may subsequently be cut, it is argued that the reference inherently teaches at least loop pile. Hence, Breens anticipates claim 29.

7. Claim 29 is rejected under 35 U.S.C. 102(b) as being anticipated by US 5,987,867 issued to Lang et al.

Lang discloses a floor textile (e.g., dirt control floor mat) having of tufts of yarn comprised of a coarse yarn and a fine yarn twisted together (abstract and col. 1, lines 4-6). The fine yarn has fibers of 32-100 dtex, while the coarse yarn comprises fibers of 110-290 dtex (abstract and col. 1, lines 60-65). The floor textile may have cut pile, loop pile or a combination thereof (col. 2, lines 52-55). In one embodiment, a yarn comprising 2 plies of 2700/68/40 dpf and 2 plies of monofilament 290 dtex is tufted into a base substrate (col. 3, line 66 – col. 4, line 7). In another embodiment, a yarn consisting of 2 plies of the 2700/68/40 dpf and 1 ply of the

monofilament is used to form the tufted floor mat (col. 4, lines 15-21). Thus, the Lang patent anticipates claim 29.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claim 29 is rejected under 35 U.S.C. 102(e) as being anticipated by US 2002/0092261 issued to Rockwell et al.

10. The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Rockwell discloses a dual fiber carpet and floor mat comprising tufted ends of yarn with one end being made from standard carpet denier yarns ranging from about 10-30 dpf and the second end being made from heavy monofilament fibers of 100-500 dpf (abstract). The tufts may be cut or loop pile (section [0008]). Thus, claim 29 is anticipated by the cited Rockwell reference.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Breens, Lang, and Rockwell references as applied to claim 29 above.

While the cited prior art fails to teach the cross-sectional shape of the stiff monofilaments, it would have been readily obvious to one of ordinary skill in the art to employ ribbon or tape monofilaments (i.e., slit film). Specifically, floor mats comprising Astroturf® or grass-like ribbon monofilaments are well known in the art as suitable for scraping dirt from shoe soles. Applicant is hereby given Official Notice of this fact. As such, one would be motivated to select ribbon monofilaments such as those employed in said grass-like floor mats in order to provide stiff monofilaments which enable dirt removal from shoes. Additionally, it is argued that upon selection of said ribbon monofilaments, the claim limitations of "at least one corner edge," "an aspect ratio of greater than 1.2," and "a cross-sectional area that is...rectangular shaped" are inherently met. Therefore, claims 30-34 are rejected as being obvious over the cited prior art.

The examiner notes that the facts asserted to be common and well-known are capable of instant and unquestionable demonstration as being well-known. To adequately traverse such a finding, applicant must specifically point out the supposed errors in the examiner's action, which

would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.

Conclusion

13. The art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CHERYL A. JUSKA
PRIMARY EXAMINER

cj
December 7, 2006